IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE BILAL NAZKI

AND

THE HON'BLE MR. JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 2783 OF 2005

Dated: September 21, 2006

Between:

M/s. Bharath Heavy Plate & Vessels Limited,
Visakhapatnam, Rep. By its Dy. Manager (Legal)
Sri K.Abraham

Petitioner

AND

The Hon'ble Arbitral Tribunal,
By its Hon'ble Sole Arbitrator,
Government Quarter No.2 (New),
Kuntan Bagh, Hyderabad, and another

Respondents

ORAL ORDER:

(Per the Hon'ble Sri Justice Bilal Nazki)

The petitioner and 2nd respondent are parties to the arbitration proceedings before 1st respondent - learned Sole Arbitrator who has entered into reference.

The petitioner moved an application before the Arbitrator on the ground of maintainability of the arbitration proceedings in view of Sec. 22 of the Sick Industrial Companies (Special Provisions) Acts, 1985, on the ground that the industry has been declared sick. After hearing on merits, the learned Arbitrator dismissed the application.

This order has been challenged by way of this writ petition.

The learned counsel for the respondent has drawn our attention to a judgment of the Seven Judges Bench reported in *SBP & Co. Vs. Patel Engineering Limited and another* ([1]). The question whether the orders passed by the Arbitral Tribunal during Arbitration can be challenged under Article 226 or 227 of the Constitution directly came before the Supreme Court and in paragraph 45, the Supreme Court categorically held:

> *"…We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the Arbitral Tribunal is capable of being*

corrected by the High Court under Article 226 of 227 of the Constitution. Such an intervention by the High Courts is not permissible…"

In view of the clear declaration of law by the Supreme Court, we hold that this writ petition is not maintainable. It is accordingly dismissed. No order as to costs.

Bilal Nazki, J.

Nooty Ramamohana Rao, J.

September 21, 2006
MAS.

[1] (2005) 8 Supreme Court Cases 618